



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/582,297	04/08/2002	Kenneth Carbone	06975-029006	1661
26171 7590 04/29/2010 FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022				
EXAMINER				
OSMAN, RAMY M				
ART UNIT		PAPER NUMBER		
2457				
NOTIFICATION DATE		DELIVERY MODE		
04/29/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/582,297
Filing Date: April 08, 2002
Appellant(s): CARBONE ET AL.

Dmitry Brant (Reg No 59133)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 2/12/2010 appealing from the Supplemental Final Office Action mailed 8/7/2009 and its corresponding Advisory Action mailed 12/7/2009.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1-27 and 37-60 are pending and are rejected.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the

appeal is taken (and as modified by the advisory action) is being maintained by the examiner except for the grounds of rejection listed under the subheading "WITHDRAWN REJECTIONS."

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner. The 112 second paragraph rejection of claim 1 is withdrawn.

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

6,963,923	Bennett	11-2005
-----------	---------	---------

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1-27,37-60 rejected under 35 U.S.C. 102(e) as being anticipated by Bennett (US Patent 6963923).**

3. In reference to claim 1, Bennett teaches a method and computer readable medium for asynchronously transferring a plurality of data objects between client and host devices, the method comprising:

transmitting a request for a data transfer session from a client device to a host (column 8 line 51, client requests a data transfer of profile x.pro), the request identifying a plurality of data objects to be transferred between the client device and the host (Figure 5 #250 and column 7 lines 58-59, the requested profile x.pro can identify multiple components that are to be transferred);

in response to the received request, transmitting from the host to the client device the plurality of identifiers for data objects (column 8 line 53, the server sends back the profile x.pro, which includes three data components (see also column 7 lines 60-63 & column 8 lines 38-39)), wherein each identifier is assigned by the host and corresponds to a different one of the data objects to be transferred (column 7 lines 38-43 & 58-63, a profile is generated by the host which identifies the components for transfer);

transferring over a network between the host and client devices a data frame that includes an identifier and at least a portion of the corresponding data object (column 9 lines 2-3, server transfers the component x.1 to the client); and

repeating the data frame transfers until the plurality of data objects have been transferred (Figure 6 #274 and column 9 lines 15-18, repeating the transfer for the remaining components).

4. In reference to claim 2, Bennett teaches the method of claim 1, wherein at least two sequential transfers of a data frame include transferring frames with different identifiers (see at least column 9 lines 19-20).

5. In reference to claim 3, Bennett teaches the method of claim 1, wherein the transfers of the portions of at least two data objects are interleaved (see at least column 9 lines 19-20).
6. In reference to claim 4, Bennett teaches the method of claim 1, further comprising: transmitting a data transfer request from the client device to the host device, the transmission of a plurality of identifiers being in response to the data transfer request (see at least column 8 lines 50-52).
7. In reference to claim 5, Bennett teaches the method of claim 1, wherein the transfers are downloads (see at least column 8 lines 32-40).
8. In reference to claim 6, Bennett teaches the method of claim 1, wherein a portion of the transfers are uploads and a portion of the transfers are downloads, the uploads and downloads being interleaved (see at least column 8 lines 1-40).
9. In reference to claim 7, Bennett teaches the method of claim 1, wherein the transfers of data frames stop at a preselected frame count in the absence of a request for more data frames from a device that receives the data frames (see at least column 9 lines 15-17).
10. In reference to claim 8, Bennett teaches the method of claim 1, further comprising: transmitting to the client device a size for data frames before the transfers, the data frames transferred being of said size (see at least column 8 lines 1-30).
11. In reference to claim 9, Bennett teaches the method of claim 1, further comprising: transmitting a frame count to the client device, the frame count corresponding to the number of data frames that the client device can transfer without receiving a request for more data frames (see at least column 9 lines 4-13).

12. Claims 10-16, 17-27, 37-44, 45-50, 51-60 are sets of claims that each correspond to claims 1-9 above and are slight variations thereof. Therefore claims 10-27,37-60 are rejected based upon the same rationale as given for claims 1-9.

(10) Response to Argument

13. NOTE REGARDING THE BENNET REFERENCE:

The Bennett reference refers to CONFIG.SYS.PRO, CONFIG.SYS1, CONFIG.SYS2, CONFIG.SYS3 as a specific example of a profile and its three components (see at least column 7 lines 60-64). It also refers to x.pro, x.1, x.2, x.3 as a generic examples (see at least column 8 lines 32-40). Accordingly, x.pro is the generic example of profile CONFIG.SYS.PRO, x.1 is the generic of component CONFIG.SYS1, etc. These equivalents of the generic and specific are interchangeably used within the reference.

14. On page 12 and the top of page 13, Appellant argues that “*Bennett only identifies a single profile x.pro, but not the multiple objects within the profile ... At the time of the first request, the client does not know which file components need to be downloaded ... The profile request in Bennett thus does not identify any multiple files or data objects.*”

In reply, Bennett teaches an indirect request of multiple components (i.e. the claimed “*plurality of data objects*”).

In the example given in Bennett, a client requests to download a profile (x.pro) from a server (column 8 lines 51-52), the server then sends the profile (x.pro) back to the client (column 8 lines 53-54). The profile is generically referred to as x.pro and specifically referred to as CONFIG.SYS.PRO. The server generates the profile and its multiple components, generically

x.1, x.2, x.3 (specifically CONFIG.SYS1, CONFIG.SYS2, CONFIG.SYS3) (column 7 lines 38-41 & 58-63). When the server sends the profile back to the client, this effectively informs the client of the multiple components (x.1, x.2, x.3). The client then proceeds to download the multiple components (column 8 lines 66-67 and column 9 lines 16-18).

At the time of initially requesting the profile, the client need not know how many components are part of the profile. The client only needs to know the name of the profile so that the server can inform the client of the multiple components that make up the profile. By simply sending an initial profile request, the client is indirectly and ignorantly identifying the multiple components that are to be downloaded. The subsequent transactions of transmitting the components from the server to the client all hinge on the initial profile request. The claims are broad and do not preclude an ignorant client at the time of the initial request. The claims are broad and do not preclude any further interactions between the server and client after the initial request. The rejection is thus maintained.

15. In the middle of page 13, Appellant argues that “*the kind of transfer... must be a request by the client for a data transfer session*” which Bennett does not teach because Bennett “*identifies data objects using transmission that occur after initiation of the data transfer session...*”.

In reply, the claims make no mention of the argued “*after initiation*”, and makes no mention as to when the request is sent in relation to the “*initiation*”. Furthermore, Bennett discloses that a connection is first initiated and then a data transfer is subsequently initiated. The claim is given its broadest reasonable interpretation.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Ramy M Osman/

Primary Examiner, Art Unit 2457

Conferees:

/Salad Abdullahi/
Primary Examiner, Art Unit 2457

/salch najjar/
Supervisory Patent Examiner, Art Unit 2455